IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated:- 05.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.1 of 2006

P. Mahesh ... Petitioner

vs.

1. The secretary to
Government of India,
Ministry of Home Affairs
(Department of Internal Security),
North Block, New Delhi-110 001.

2. The Secretary to the Government,
Government of Tamilnadu,
Public (Law & Order-F) Department,
Fort St. George, Chennai-600 009.

3. District Magistrate and
District Collector, Thiruvarur. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of a Writ of Habeas Corpus to direct the respondents to produce detenu P.Mahesh before this Hon'ble Court, now confined at Central Prison, Tiruchirapalli, set him at liberty and to call for the records pertaining to the order of detention passed by the third respondent in C.O.C. No.12 of 2005/N.S.A./2005 dated 15.10.2005 and set aside the same.

For Petitioner : Mr.Sanjeev Kumar

For R-2 & R-3 : Mr.M.Babu Muthu Meeran,
Addl. Public Prosecutor.

For R-1 : Mr.P.Kumaresan, Addl.
Central Govt. Standing Counsel

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(Order of the Court was made by P.SATHASIVAM, J.)

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The petitioner herein challenges the impugned order of detention, dated 15.10.2005, passed by the third respondent, detaining him under the provisions of the National Security Act, 1980.

2. Heard learned counsel for the petitioner and learned Additional Public Prosecutor for R-2 and R-3 as well as learned Additional Central Government Standing Counsel for R-1.

3. At the foremost, learned counsel for the petitioner submitted that the representation dated 11.11.2005, sent to the first respondent, has not been considered.

4. As against the said contention, learned Additional Central Government Standing Counsel appearing for the first respondent, on specific instruction, informs this Court that they have not received any such representation either from the detenu or his relatives.

No doubt, in the counter affidavit filed by the third respondent-District Magistrate and District Collector, Thiruvarur District, reference has been made to the representation said to have been sent to the first respondent. Inasmuch as the third respondent is not the concerned/competent authority to speak about the representation said to have been addressed to the first respondent; and in view of the categorical statement by the learned Additional Central Government Standing Counsel; we find no valid reason to reject his stand. Accordingly, the first contention is rejected.

5. Learned counsel for the petitioner further submitted that, in view of the fact that even the second adverse case ended in acquittal, the respondents are not justified in invoking the National Security Act. As against the said contention, it is brought to our notice that the detenu involved in an occurrence dated 08.05.2002, whereupon, a case was registered in Muthupettai Police Station Crime No.131 of 2006 under Section 302 IPC. According to the learned Additional Public Prosecutor, the said case is still pending trial. The second adverse case relates to an occurrence that took place on 30.09.2003, the Crime Number being 435/2003 on the file of the very same police Station, registered under Sections 147, 355, 323, 427 and 506 (ii) IPC. Though learned counsel for the petitioner represented that the said case ended in acquittal, except his statement, he has not

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substantiated his version by furnishing copy of the order etc., on the other hand, learned Additional Public Prosecutor asserts that the said case is still pending trial.

6. Regarding the ground case occurrence, which is said to have taken place on 13.09.2005, the Detaining Authority, considering the conduct and involvement of the detenu in the said case relating to Muthuputtai P.S. Crime Number 327 of 2005, registered under Sections 147, 148, 323, 324, 307 IPC., 25(1) (a) of Arms Act, 1959 and 3(1) of the Prevention of Damage to Public Property Act, 1984; and also taking note of the fact that Muthupettai is a sensitive area, where Hindus and Muslims are more or less equal in population, and that the activities of the detenu would disrupt the national integration and national security; and on being satisfied that person like detenu Mahesh is to be dissuaded from acting in such a manner detrimental to the national security and that recourse to normal criminal law will not have the desired effect of preventing him from indulging in similar activities in future; detained him under the National Security Act.

7. In the light of the above details, it cannot be claimed that the Detaining Authority has not considered the relevant aspects before passing the impugned detention order, on the other hand, we are satisfied that the Detaining Authority possessed all the relevant materials and, only after arriving at a subjective satisfaction, detained the detenu under the National Security Act. Hence, we reject the contention of the learned counsel for the petitioner.

8. Admittedly, there was no delay in disposal of the representation made to the second respondent. Even otherwise, the particulars furnished by the learned Additional Public Prosecutor show that there was no let up or delay at any stage in disposal of the representation received on 05.11.2005.

9. We do not see any valid ground for interference. Habeas Corpus Petition fails and the same is dismissed.
JI.

Sd/
Asst.Registrar

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Sub Asst.Registrar

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To

1. The secretary to Government of India, Ministry of Home Affairs
(Department of Internal Security),
North Block, New Delhi-110 001.

2. The Secretary to the Government, Government of Tamilnadu,
Public (Law & Order-F) Department, Fort St. George,
Chennai-600 009.

3. The District Magistrate and District Collector, Thiruvarur.

4. The Public Prosecutor, High Court, Madras.

5. The Superintendent, Central Prison, Trichy

+ one cc to Mr. P. Sanjeev Kumar Advocate sr no. 41315

NA(CO)
NM(21.09.2006)

HCP No.1 of 2006.

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